

REMARKS

In the Final Office Action mailed January 9, 2009, claims 1-29, 31-40, 42-49 and 55-59 were pending and stand finally rejected. Claims 1, 16, 26, 36 and 46 are amended in this response, and claims 6, 15, 19, 25, 29, 35, 39, 45 and 49 are cancelled. In view of the following remarks, reconsideration and allowance of the present application are hereby requested.

Claims 1-25, 35, 45, 49, 56 and 57 were rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter applicant regards as the invention. Specifically, a portion of claim 1 was considered vague and indefinite because "said pre-bent configuration" lacks antecedent basis. Claim 1 is amended as suggested in the Office Action and therefore the rejection under 35 USC 112, second paragraph is believed moot. Withdrawal of this basis of the rejection of claim 1 is respectfully requested.

Dependent claims 15, 25, 35, 45 and 49 were also rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter applicant regards as the invention. Specifically, the Office Action indicates that if these claims were amended to recite the inner surface of the tube defining the working channel rather than "said inner surface of said retractor extending completely around said tube to define said working channel", then the rejections would be addressed.

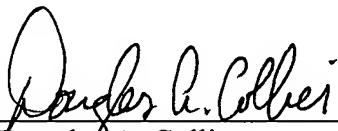
It was further indicated that if claims 15, 25 and 35 were amended to address this rejection, then these claims would be allowable if rewritten in independent form. Claims 1, 16 and 26 are amended above to incorporate claims 15, 25 and 35, respectively, with the subject matter of claims 15, 25, 35 amended in the manner suggested above to address the rejections under 35 USC 112, second paragraph.

Applicant notes that no indication of allowability for claims 45 and 49 was provided if these claims were also amended to address their rejection under 35 USC 112, second paragraph. It is respectfully submitted that claims 45 and 49 are believed to recite the same features considered to be allowable in claims 15, 25 and 35. Therefore, it is respectfully submitted that claims 45 and 49 should also be allowable if amended to address their rejection under 35 USC 112, second paragraph. The subject matter recited in claim 45 is amended as suggested and incorporated into independent claim 36 above. The subject matter of claim 49 is also amended as suggested above, and also amended to recite a pair of wall member rather than at least one

wall member to provide proper antecedent basis, and this amended subject matter is incorporated into independent claim 46 above. Therefore, claims 36 and 46 are also believed allowable.

In view of the foregoing amendments and remarks, it is respectfully submitted that the present application is in condition for allowance with pending claims 1-5, 7-14, 16-18, 20-24, 26-28, 31-34, 36-38, 40, 42-44, 46-48 and 55-59. Reconsideration of the present application as amended is respectfully requested. Timely action towards a Notice of Allowance is hereby solicited. The Examiner is encouraged to contact the undersigned by telephone to resolve any outstanding matters concerning the present application.

Respectfully submitted:

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